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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/496,170	02/01/2000	Jeffrey Delaney	109140-0001	5831

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BOSTON, MA 02109

EXAMINER

HOOSAIN, ALLAN

ART UNIT	PAPER NUMBER
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2645

21

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/496,170

Applicant(s)

DELANEY ET AL.

Examiner

Allan Hoosain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 63-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 63-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 19.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 63-66,68-69,72-73,75-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kelly, Jr.** in view of **Brown**.

As to Claim 63, with respect to Figures 2 and 6-10, **Kelly, Jr.** teaches a message notification system comprising:

a sender interface comprising an audio message compose mechanism to receive from the sender a composed audio message (Col. 3, lines 46-47); and

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a telephony message delivery management mechanism to manage delivery of the audio message via telephone calls to persons answering telephones and to answering machines (Col. 3, lines 52-57),

the delivery management mechanism comprising an answer detection mechanism to detect when a call for delivery of the audio message is answered by a person answering a telephone and when the call is answered by an answering machine (Col. 3, lines 58-68),

the answer detection mechanism comprising an answer detector to detect a speech signal response when the call is answered and to determine a length of the speech signal, a speech signal of shorter length being deemed an indication that the audio message to be sent is answered by a person and a sustained speech signal of longer length being deemed an indication that the audio message to be sent is answered by an answering machine (Figure 7 and Col. 6, lines 7-40);

Kelly, Jr. does not teach the following limitation:

“a sender interface”

However, it is obvious that **Kelly, Jr.** suggests the limitation. This is because **Kelly, Jr.** teaches delivering pre-recorded voice messages (Col. 2, lines 34-41). **Brown** teaches an interface which receives voice messages from senders for delivery (Figure 1, label 120). Since **Kelly, Jr.** and **Brown** are in analogous message delivery art, it would have been obvious to one of ordinary skill in the art to add interface capability to **Kelly, Jr.**'s invention to receive messages from senders as taught by **Brown**'s invention in order to provide message delivery services to callers.

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As to Claim 64, **Kelly, Jr.** teaches the message notification system according to claim 63, wherein the sender interface comprises an audio message selection mechanism to select delivery of an audio message to a plural set of recipients via a telephony route (Figure 6, label 100).

As to Claim 65, **Kelly, Jr.** teaches the message notification system according to claim 64, wherein the audio message selection mechanism comprises a voice message selection mechanism to select delivery of a voice message (Figure 6, label 124).

As to Claim 66, **Kelly, Jr.** teaches the system according to claim 63, wherein the sender interface comprises an audio message selection mechanism to select delivery of an audio message to at least one recipient via a telephony route (Figure 6, label 124).

As to Claims 68,76-77, **Kelly, Jr.** teaches the system according to claim 63, wherein the message compose mechanism comprises an audio header portion and an audio trailer portion, the audio header portion comprising an audio header message to be provided to a recipient telling the recipient he or she is about to receive a message from the sender, the audio trailer portion comprising an audio trailer message to facilitate a response to the message by the recipient;

Kelly, Jr. does not teach the following limitation:

“a header portion and a trailer portion”

However, it is obvious that **Kelly, Jr.** suggests the limitation. This is because **Kelly, Jr.** teaches delivering pre-recorded voice messages (Col. 2, lines 34-41). **Brown** teaches delivery of voice messages with headers and message body (trailer portion) (Figure 4, labels 410-412).

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Since **Kelly, Jr.** and **Brown** are in analogous message delivery art, it would have been obvious to one of ordinary skill in the art to add message portion capability to **Kelly, Jr.**'s invention to announce messages from senders as taught by **Brown's** invention in order to provide message delivery services to callers.

As to Claims 69,72-73,75, **Kelly, Jr.** teaches a message notification system comprising:

a sender interface, the sender interface comprising an audio message selection mechanism to select delivery of an audio message to a plural set of recipients via a telephony route, the sender interface further comprising an audio message compose mechanism to receive from the sender a composed audio message; and

a telephony message delivery management mechanism to manage delivery of the audio message via telephone calls to persons answering telephones and to answering machines, the delivery management mechanism comprising an answer detection mechanism to detect when a call for delivery of the audio message is answered by a person answering a telephone and when the call is answered by an answering machine,

the delivery management mechanism further comprising a personal delivery mechanism and further comprising an answering machine delivery mechanism (Figure 6, labels 120,122);

the personal delivery mechanism delivering one message when the call is detected to be answered by a person, and the answering machine delivery mechanism delivering another message when the call is detected to be answered by an answering machine (Figure 6, labels 120,122);

Kelly, Jr. does not teach the following limitation:

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“a sender interface”

However, it is obvious that **Kelly, Jr.** suggests the limitation. This is because **Kelly, Jr.** teaches delivering pre-recorded voice messages (Col. 2, lines 34-41). **Brown** teaches an interface which receives voice messages from senders for delivery (Figure 1, label 120). Since **Kelly, Jr.** and **Brown** are in analogous message delivery art, it would have been obvious to one of ordinary skill in the art to add interface capability to **Kelly, Jr.**'s invention to receive messages from senders as taught by **Brown**'s invention in order to provide message delivery services to callers.

4. Claims 67,70-71,74 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kelly, Jr.** in view of **Brown** and further in view of **Ball et al.** (US 6,393,107).

As to Claims 67,70-71,74, **Kelly, Jr.** teaches the system according to claim 63,

Kelly, Jr. does not teach the following limitations:

“wherein the composed audio message comprises an audio segment of a composite message intended for telephony delivery, the composite message further comprising one or more non-audio segments intended for another mode of delivery”

Ball suggests the limitations. This is because **Ball** teaches integrating telephone interactive capability with computer interactive capability (Figure 1 and Col. 6, lines 16-40). Since **Kelly, Jr.** and **Ball** are in analogous message delivery art, it would have been obvious to one of ordinary skill in the art to add composite message capability to **Kelly, Jr.**'s invention to

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receive messages from client senders as taught by **Ball's** invention in order to provide message delivery services to callers.

5. Claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Ball** in view of **Sonnenfeld** (US 6,112,049).

As to Claim 84, **Ball** teaches the system according to claim 78,

Ball does not teach the following limitations:

“wherein the selection of a given category causes a contact selection display to be presented to the sender of individually selectable contacts in the given category, so that all or a subset of contacts in the given category can be selected as recipients and sent the message”

However, it is obvious that **Ball** suggests the limitation. This is because **Ball** teaches preparing messages for course registrants (Col. 9, lines 9-15). **Sonnenfeld** teaches the limitations by selecting particular test takers for particular tests (Col. 14, lines 31-35, Col. 18, lines 27-30, Col. 19, lines 4-8). Since **Ball** and **Sonnenfeld** are in analogous message delivery art, it would have been obvious to one of ordinary skill in the art to add test taker capability to **Ball's** invention to select test takers as taught by **Brown's** invention in order to provide message delivery services to selected recipients.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 78-83 are rejected under 35 U.S.C. 102(e) as being anticipated by **Ball et al.** (US 6,393,107).

As to Claim 78, with respect to Figures 1,3,10, **Ball** teaches a message notification system comprising:

a sender interface comprising GUI 103 (an address book selection interface), the address book selection interface comprising destination 1026 (contact addresses) presented to the sender for selection as message recipients, the message recipients comprising human recipients (Figures 3 and 10 and Col. 10, lines 1-14),

the sender interface further comprising a message selection mechanism to select delivery of a message to a plural set of selected recipients via a communications route (Figure 1 and Col. 4, lines 52-57),

the address book selection interface comprising a message type categorization mechanism to identify contacts in categories likely to receive similar messages, so that the sender selecting through the address book selection interface a given category causes a contact selection display to be presented to the sender of individually selectable contacts limited to the given category (Figure 3, label 302 and Col. 27, lines 12-18); and

a message delivery management mechanism to manage delivery of the message to the selected message recipients (Figure 3).

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As to Claims 79-80, **Ball** teaches the system according to claim 78, wherein the sender interface comprises a browser (Figure 10 and Col. 6, lines 31-36).

As to Claim 81, **Ball** teaches the system according to claim 78, wherein the sender interface comprises a computer with customer access to a notification server and a telephone (Figure 10 and Figure 1).

As to Claim 82, **Ball** teaches the system according to claim 78, wherein the sender interface comprises a telephone (Col. 6, lines 31-36).

As to Claim 83, **Ball** teaches the system according to claim 78, wherein the sender interface comprises a portion of a telephony server to respond to spoken commands (Col. 6, lines 24-31).

Response to Arguments

8. Applicant's arguments filed in the 5/12/04 Remarks have been fully considered but they are not persuasive because of the following:

Examiner noted the arguments with respect to the 1/27/04 Interview and believes that the claims do not overcome the prior art as given in the instant rejections. Examiner respectfully invites Applicants to contact Examiner to discuss how to better capture the differences between the prior art and the disclosure in the claims.

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Drawings

9. The drawings are objected to because Figure 2A does not show what changes were made. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be added, the appropriate figure must be included on the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hamilton (US 5,371,787) teaches detecting telephone calls answered by answering machines and live persons.

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11. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231
or faxed to:

(703) 872-9314, (for formal communications intended for entry)

Or:

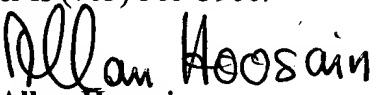
(703) 306-0377 (for customer service assistance)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Allan Hoosain** whose telephone number is (703) 305-4012. The examiner can normally be reached on Monday to Friday from 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Fan Tsang**, can be reached on (703) 305-4895.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.


Allan Hoosain
Primary Examiner
9/10/04